



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

JACKSON AND ROOSEVELT: A PARALLEL.*

BY THE EDITOR.

ONE overpowering question now confronts the American people. Shall they rule themselves, or shall they be ruled? Shall their sovereignty continue to be popular, however inadequate, or become paternal, however beneficial? Shall it be a government by the people or of the people, a government based upon principle, or a government relying upon expediency? The founders of the Republic believed they had settled this question for all time when they conceived the idea of withholding from the national Government the exercise of all functions not specifically conceded by the people and the States, and it was in conformity with that decision that Washington put aside the proffered crown—the symbol of centralized authority—and Massachusetts wrote into her organic law those memorable words:

“To the end that this may be a government of laws and not of men.”

Upon that rock the fathers builded the Constitution of the United States, jealously safeguarding personal liberty, guaranteeing to life and property the protection of self-government, giving first consideration to true interpretation of written law, maintaining the rightful force of precedent and tradition, leaving the correction of temporary evils to natural remedies, reposing faith in the ability of each community to solve its own problems, and regarding no question as settled “until settled right.”

The results that have ensued, even to the excessive prosperity of which happily we are now able to complain, would seem to prove the wisdom of the conclusion reached by those elder statesmen; and yet we are told by those now in executive authority that

* An address by the editor of the REVIEW delivered before the Hibernian Society of Charleston, South Carolina, on March 18, 1907.

the time has come when the great body of citizens, convinced of the essential inadequacy of that original policy to meet the requirements of new conditions, demand that the pendulum be swung back and that the Federal Government be vested with plenary power.

I.—THE TENDENCY.

Secretary Root marked the tendency, and President Roosevelt not only accepts but reaches eagerly for the responsibility. The former, in the course of his memorable declaration in New York, after noting the "gradual passing of control into the hands of the national government," and summarizing "further projects tending more and more to obliteration of State lines," frankly added:

"It may be that such control could better be exercised in particular instances by the governments of the States, but the people will have the control they need either from the States or from the national Government, and if the States fail to furnish it in due measure *sooner or later constructions of the Constitution will be found to vest the power where it will be exercised—in the national Government.*"

Constructions of the Constitution are made by the Supreme Court. The justices comprising that august tribunal, designed by the fathers to hold final authority exceeding that of either the Executive or the Congress, are named by the President. One member of the cabinet, in avowed sympathy with the "tendency" noted by the Secretary of State, has just been designated; another, it is well understood, awaits appointment as Chief Justice. A member of the great court nominated by the Chief Magistrate who voted against the contention of the Administration in a famous case was denounced as "disloyal." What are we to infer? That "constructions" of the Constitution "will be found, sooner or later," by justices of purely judicial temperament, bent solely upon correct interpretation, or by mere prejudiced puppets of the executive arm of the Government?

"It is useless," declared the Secretary of State, "for the advocate of State rights to inveigh against the supremacy of the constitutional laws of the United States." But nobody has inveighed against either the supremacy or application of "constitutional laws"; it is the adroit, avowed and almost treasonable challenge of our fundamental law that evokes condemnation. It

is also "useless," according to the Secretary of State, to inveigh "against the extension of national authority in the fields of necessary control." Against *constitutional* extension of such authority? No. It is the admittedly *unconstitutional* extension that makes for apprehension; that is, admittedly unconstitutional until "constructions" shall be "found." When, if ever, that sinister prophecy shall have come to pass, there will be no occasion to stand steadfastly for or inveigh against a Constitution that will have become as dead as the laws of Medes and Persians.

II.—THE AVOWAL OF PURPOSE.

But we are told that Secretary Root's words were not meant to convey a threat of usurpation by the Federal authority as at present constituted; that they bore no more than a friendly warning, a gentle hint to the various commonwealths to be up and doing and pass laws to conform with the policy of the Administration—or take the consequences. It is a distinction with no great difference apparent to average vision. But it was not necessary for the Secretary of State to avow intent; the President had already done so when at Harrisburg he said, in unmistakable terms:

"We need, through executive action, through legislation and through *judicial interpretation and construction of law*, to increase the power of the Federal Government. If we fail thus to increase it, we show our impotence."

Again, he endorsed the explicit declaration:

"Whatever can be safely left to the States should be left to them, but where the interests of the Nation require action on the part of the Federal authorities, such action should not be withheld on grounds of mere abstract theory."

The Constitution having sunk to the level of "mere abstract theory," it is not surprising that the President should utterly ignore the fact that such powers as are now vested in the Federal Government were held originally by the States and were surrendered voluntarily by them for a definite purpose; and that all others were specifically reserved. In the phrase "whatever can safely be left" to them, we find a plain implication of purpose, not to ask that additional authority be delegated, after the manner provided by the Constitution, but to take it virtually by force. This is very far from being mere disregard of "abstract theory"; it is in flat violation of a solemn compact, frankly derisive of the

binding force of contractual obligations, and is based upon the false and dangerous assumption that it is the Nation, and not the States, that possesses the right to give or take away.

We have no need to inquire who is to determine when and in what respect local governments shall have failed to perform their functions properly; there is but one fount of true wisdom, but one abiding-place of relentless virtue left to this benighted land.

It is no cause of surprise, therefore, that such a ruler should telegraph to his cabinet minister:

"I do not care in the least for the fact that such an agreement is unconstitutional."

True, the Constitution thus spat upon was not that of the United States, but of Cuba—an instrument which our Government had participated in framing, had expressly approved and by plain implication promised to sustain. The assertion, therefore, was not treasonable, but it does clearly indicate a frame of mind which spurns restraint of even organic law; incidentally, moreover, it was the most gratuitous and insulting utterance respecting a friendly neighbor and helpless ward that ever emanated from the lips of an American President.

III.—REPUBLICAN DISSENTERS.

In his latest fulmination at Cambridge, the President gave passing notice to the "curious revival of the doctrine of State rights," and impugned the motives of those who had raised it at this inopportune time, declaring that their real purpose was "to protect State corporate creations in predatory activities." The names of these marauders were not mentioned, but fortunately they are well known. Those most conspicuous from one branch of public service are Justices Brewer and Harlan of the Supreme Court, and Justice Brown, of Pennsylvania; from another, Senator John C. Spooner, who pronounced Secretary Root's deliverance "altogether unprecedented and full of startling suggestions, to say the least"; Senator Joseph B. Foraker, who found such "advocacy of the centralization of power" destructive of "wise constitutional limitations," and Congressman Samuel W. McCall, who denounced "the proposition to take by 'construction' powers not expressly granted by the Federal Constitution" as "only a part of the unending conflict between autocracy and liberty."

True, the ebullient young Senator from Indiana leaps to the defence of his idol with the ringing definition:

"What is the nation? It is the American people in the mass."

Chief-Judge John Marshall used the same term in another sense when he declared that "no political dreamer" would ever be "wild enough to think of breaking down the lines which separate the States, and of compounding the American people into one common mass."

Even Abraham Lincoln unwittingly invited the wrath of an impatient successor by asserting in his first inaugural:

"To maintain inviolate the rights of the States to order and control under the Constitution their own affairs by their own judgment exclusively, is essential for the preservation of that balance of power on which our institutions rest."

Nearly if not quite as happy in expression as Senator Beveridge, Governor Cummins, of Iowa, solemnly asseverated:

"I believe with Secretary Root that the failure on the part of the various commonwealths to do their full duty in bringing their legislation into harmony with existing conditions will necessarily result in the usurpation of functions by the general Government."

It may well be suspected that the incautious Governor's ears burned at about the time Secretary Root's eye lit upon the word "usurpation"—and yet it is a strong, meaningful term, and Mr. Cummins can find an excellent precedent for its use in the farewell address to the people of the United States of George Washington, now become the grandfather of his country, who said:

"If, in the opinion of the people, the distribution or modification of the constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the Constitution designates. But let there be no change by usurpation; for, though this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed. The precedent must always greatly overbalance in permanent evil any partial or transient benefit, which the use can at any time yield."

Yet more directly applicable to the "tendency" of the moment was Thomas Jefferson's contemplation with satisfaction of what he described as "our peculiar security in the possession of a written Constitution not made a blank paper by construction."

IV.—DANIEL WEBSTER, "MOLLYCODDLE."

But the worst "mollycoddle" of all was Daniel Webster. "States' rights," declared the President at Cambridge, "should be pre-

served when they mean the people's rights, but not when they mean the people's wrongs." What would the great expounder of the Constitution have said to this wily and disingenuous declaration? What *did* he say to a precisely similar and equally specious assertion, namely, that criticism of the Executive should be "subject to the restraints of truth and justice," contained in President Jackson's protest in 1837. "But, sir," he demanded, "who is to be the judge of this truth and justice? Are the people to judge for themselves, or are others to judge for them?" So, who can doubt that if living to-day Daniel Webster again would want to know, not whether, for example, the imposition of a divorce law upon South Carolina by Federal authority would be desirable, but who should be the judge of its desirability—a far-away Executive or the people themselves concerned? And who can doubt that he would continue to-day as he did continue seventy years ago with this splendid utterance:

"The first object of a free people is the preservation of their liberty; and liberty is only to be preserved by maintaining constitutional restraints and just divisions of political power. Nothing is more deceptive or more dangerous than the pretence of a desire to simplify government. The simplest governments are despotisms; the next simplest, limited monarchies; but all republics, all governments of law, must impose numerous limitations and qualifications of authority, and give many positive and many qualified rights. In other words, they must be subject to rule and regulation. This is the very essence of free political institutions. The spirit of liberty is, indeed, a bold and fearless spirit; but it is also a sharp-sighted spirit, it is a cautious, sagacious, discriminating, far-seeing intelligence; it is jealous of encroachment, jealous of power, jealous of man. It demands checks; it seeks for guards; it insists on securities; it intrenches itself behind strong defences, and fortifies itself with all possible care against the assaults of ambition and passion. It does not trust the amiable weaknesses of human nature, and therefore it will not permit power to overstep its prescribed limits, though benevolence, good intent and patriotic purpose come along with it."

These are not the words of present-day "mollycoddles," sneeringly alluded to as bowing before the fetish of States' rights; they are the firm and everlasting declarations of the great Nationalist, whose insistence that the indestructible States had welded them-

selves into a no less indestructible Union ultimately required the arbitrament of the sword. One can almost hear that mighty voice ringing again to-night:

"I do not wish, sir, to impair the power of the President as it stands written down in the Constitution, and as great and good men have hitherto exercised it. In this, as in other respects, I am for the Constitution as it is. But I will not acquiesce in the reversal of all just ideas of government; I will not degrade the character of popular representation; I will not blindly confide, where all experience admonishes me to be jealous; I will not trust executive power, vested in the hands of a single magistrate, to be the guardian of liberty."

V.—A POSSIBLE PRESIDENT.

We may, nevertheless, admit that if Daniel Webster were now living, and could be assured of a continuance of monopoly of public virtue embodied in a single personality, he would look into the future with calm confidence. But life, however earnest, is short, and history teaches the necessity of considering succession. In the ordinary course of human events, especially in the turmoil and excitement and misapprehension of a national political contest, an error might be made and one might be chosen by the nation as its Chief Magistrate who should combine in himself qualities of profession so inconsistent with his practices as to create general distrust and constitute a real menace to the stability and permanence of our national institutions; one, for instance, who, while demanding vehemently that all should be doers and builders, himself should be the most striking exemplar of constant undoing and persistent tearing down; one who should sternly denounce all critics, though himself the most censorious of persons; one who should sneer at others for opposing radicalism instead of proposing actual reforms, while himself forced to appropriate the notions of political antagonists; one who should hold aloft the banner of idealism and simultaneously trade with those notoriously corrupt; one who, while urging the necessity of individual achievement, should encourage socialism by inviting attack upon accumulations of wealth which are the natural results of the very individual endeavors thus advocated; one who, while exacting the fullest recognition of his own official prerogatives, should not hesitate to denounce an hon-

est judge for performing his simple duty under the Constitution and the statutes; one whose sense of personal righteousness should so far overpower his sense of personal charitableness as to induce frequent denunciation of those disagreeing with him as wilful, malicious and unqualified prevaricators; one who should, while constantly railing at trusts, yet shield with the utmost care the sacred tariff, breeder of them all; one who should deplore political contributions from corporations, yet raise to the most powerful position in his government one who had sought and obtained them; one quicker than any other to castigate the beneficiaries of a violation of trust, firmer than any other in demanding restitution of diverted funds, yet painfully silent respecting the disposition of large sums of money taken from policy-holders and used to insure, not the lives of the insured, but the election of a President.

VI.—JACKSON AND ROOSEVELT—A PARALLEL.

It was a ruler such as this beyond a doubt that Webster refused to constitute the guardian of liberty—a ruler such as Jackson, whom he had in mind, and of whom, in Sumner's admirable biography, we find words well worthy of prayerful consideration at this time.

“Jackson,” says his biographer, “held that his reëlection was a triumphant vindication of him in all the points in which he had been engaged in controversy with anybody, and a kind of charter to him, as representative, or, rather, tribune, of the people, to go on and govern on his own judgment over and against everybody, including Congress. His attitude towards the Supreme Court, his discontent with the Senate, his construction of his duties under the Constitution, all things, great and small, were held to be covered and passed upon by the voice of the people in his reëlection. . . . The Jeffersonian non-interference theories were now all left far behind. Jacksonian democracy was approaching already the Napoleonic type of the democratic empire, in which the elect of the nation is charged to protect the state against everybody, chiefly, however, against any constitutional organs. . . . Up to that time the Supreme Court had not failed to pursue the organic development of the Constitution, and it had, on every occasion on which it was put to the test, proved the bulwark of constitutional liberty, by the steadiness

with which it had established the interpretation of the Constitution, and checked every partial and interested effort to wrest the instrument from its true character. . . . Jackson's appointments introduced the mode of action by the Executive, through the selection of the judges, on the interpretation of the Constitution of the Supreme Court. . . . During Jackson's second term the growth of the nation in wealth and prosperity was very great. It was just because there was an immeasurable source of national life in the physical circumstances, and in the energy of the people, that the political follies and abuses could be endured."

So we perceive that there is no novelty in our present situation. In Jackson's time, as to-day, despite the excellent general conditions, there were constant manifestations of dissatisfaction and unrest, and the dispassionate historian does not hesitate to attribute them to Jackson's character and example.

"Great parties," he continues, "did not organize on the important political questions. Men were led off on some petty side-issue, or they attached themselves to a great man, with whom they hoped to come to power. One feels that there must have been a desire to say to them: No doubt the thing you have taken up as your hobby is fairly important, but why not pursue your reformatory and philanthropic work outside of politics? The truth was that nearly all the cliques wanted to reach their object by the short cut of legislation; that is, to force other people to do what they were convinced it was a wise thing to do, and a great many also wanted to make political capital out of their 'causes.'"

VII.—WEBSTER ON DANGERS OF PROSPERITY.

It was this condition of affairs, so precisely analogous to that of the present, that inspired Webster's stern denunciation of those, in places high or low, who, instead of inciting individual endeavor, feed the fires of socialism.

"There are persons," he declared, "who constantly clamor. They complain of oppression, speculation, and the pernicious influence of accumulated wealth. They cry out loudly against all banks and corporations, and all the means by which small capitals become united, in order to produce important and beneficial results. They carry on a mad hostility against all established institutions. They would choke up the fountains of industry, and dry all its streams.

"In a country of unbounded liberty, they clamor against oppression. In a country of perfect equality, they would move heaven and earth against privilege and monopoly. In a country where property is more equally divided than anywhere else, they rend the air with the shouting of agrarian doctrines. In a country where the wages of labor are high beyond all parallel, they would teach the laborer that he is but an oppressed slave. Sir, what can such men want? What do they mean? They can want nothing, sir, but to enjoy the fruits of other men's labor. They can mean nothing but disturbance and disorder, the diffusion of corrupt principles, and the destruction of the moral sentiments and moral habits of society. A licentiousness of feeling and of action is sometimes produced by prosperity itself. Men cannot always resist the temptation to which they are exposed by the very abundance of the bounties of Providence, and the very happiness of their own condition."

Here we have a perfect picture of our present situation. Prosperity, aided by a President, has produced a licentiousness of feeling and action, a desire to enjoy the fruits of other men's labor and the promulgation of agrarian doctrines; complaints of oppression and of the pernicious influence of accumulated wealth have provoked hostility to established institutions, and outcries against the combining of small capitals to produce beneficial results bid fair to choke up the fountains of industry and dry all its streams. Already, as an immediate effect of a whirlwind of hostile legislation incited throughout the country by the declarations of the President and the "warnings" of the Secretary of State, capital has withdrawn its essential support, money cannot be had to provide adequate means of transportation, railway companies are called upon to make bricks without straw, and all enterprise pauses uneasily in the face of the official boast of so much "already done" and the latest threat of a further "girding up of loins to do more." Because a few have done wrong, all must suffer; just discrimination has been thrown to the winds, and the end is not in sight. The President reiterates the assertion that he is still unconvinced of the necessity of serving a third term, but authorizes the positive announcement that no "reactionary" need apply for the Republican nomination. Andrew Jackson alone of all the recent Presidents was strong enough to name his successor at the end of an administra-

tion curiously like the present one in impetuous defiance of restraint and in the ferocity of its assaults upon what Mr. Webster aptly termed the "fountains of industry." That Mr. Roosevelt is equally potent, so far at least as his own party is concerned, there can be no doubt.

VIII.—WHAT SHALL THE HARVEST BE?

What will the harvest be? Let us turn for a parallel to the pages of history recording the immediate sequence of the Jackson administration and read as follows:

"A few days after Van Buren's inauguration the country was in the throes of the worst and most wide-spread financial panic it has ever seen. The distress was fairly appalling, both in its intensity and in its universal distribution. All the banks stopped payment, and bankruptcy was universal. . . . The efforts made by Benton and the other Jacksonians to stem the tide of public feeling and direct it through the well-worn channel of suspicious fear of, and anger at, the banks, as the true authors of general wretchedness, were unavailing; the stream swelled into a torrent, and ran like a mill-race in the opposite way. . . . But a few years before the Jacksonians had appealed to a senseless public dislike of the so-called 'money power,' in order to help themselves to victory, and now they had the chagrin of seeing an only less irrational outcry raised against themselves in turn, and used to oust them from their places. The people were more than ready to listen to any one who could point out, or pretend to point out, the authors of, and the reasons for, the calamities that had befallen them. Their condition was pitiable. . . . Trade was at a complete standstill; laborers were thrown out of employment and left almost starving; farmers, merchants, mechanics, craftsmen of every sort—all alike were in the direst distress."

Such is the veracious chronicle of Theodore Roosevelt, historian, of the aftermath of an administration in all respects strikingly similar to that under which we now live—similar in methodical attacks upon property, in appeals to envy and uncharitableness, in wanton extravagance, in the domineering characteristics of the Chief Executive, in his aloofness from the conservative branch of his own party, in his determination to obtain new constructions of the Constitution from justices appointed by himself, in faith in his own ability to make the people happy, in his

assumption that he was constituted by them, not their mere executive officer, but their tribune, in his very personal popularity and power.

"The harm," adds the historian, "was largely due to causes existing throughout the civilized world, and especially to the speculative folly rife among the whole American people; but," he significantly concludes, "it is always an easy and a comfortable thing to hold others responsible for what is primarily our own fault."

Thus spake the historian. Pray God that a like evasion of responsibility may not be forced upon an historian become President!

I have drawn upon the bitter experience of the past for a parallel designed to indicate the menace of living tendencies because it is necessary to make the portrayal distinct and clear. The line I would draw lies between impulse and reason, between hasty action and sober judgment, between practice of politics and aim at statesmanship, between too great heed of expediency and too little observance of principle, between attempts to regulate human destiny, from before the cradle to after the grave, and reliance upon natural remedies and the patriotic spirit of American citizens.

IX.—THE DUTY OF THE SOUTH.

I ask only, in conclusion, if we must anticipate a repetition of history in the designation by a second Jackson of a successor pledged to the continuance of arbitrary regulation and legislation by executive commissions, or shall an earnest effort at least be made to turn back our government into the safer path hewn by the fathers of the Republic? Two years ago, in this city, I insisted that it was for the South to say, and I repeat the assertion now. No other section has remained loyal to the Democratic party; none other may in morals or precedent question its right to name the Democratic candidate and write the Democratic platform. But where will the South look for an alliance holding forth a hope of success? Will it turn to the East, whose great States proved at the latest elections that they await only an opportunity to renew their allegiance to the ancient faith, or will it turn to the West and assassinate both issue and prospects of success by pinning faith to one whose voice has become a mere whispering echo of that of the new high apostle

of radicalism, paternalism and socialism? It is easy to sneer at the failure of the latest national appeal for safety and sanity, but it is vastly more difficult to mention another candidate who, in those peculiar circumstances, would have fared better. There may be and probably is little hope of immediate success on even the certain ground that every evil complained of was born of Republican rule; but surely there is none at all without an issue,—with even the opportunity of appealing to reason, prudence, fidelity to tradition and faith in the ultimate triumph of idealism eliminated. We may at least be true, true to ourselves, true to the patriots who have died, true to those living who still insist that popular government should not and shall not “perish from the earth.”

With Lincoln, then, let us stand; with Webster, too, for “liberty and union, now and forever, one and inseparable”; with the Supreme Court for “an indestructible Union of indestructible States”; but especially at this critical moment in our National history with John C. Calhoun for the motto graven upon the beautiful monument in your public square—“Truth, Justice and the Constitution”!